

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6534

BILL NUMBER: SB 217

NOTE PREPARED: Mar 11, 2014

BILL AMENDED: Jan 27, 2014

SUBJECT: Underground Tank Fee and Drainage Onsite Reviews.

FIRST AUTHOR: Sen. Charbonneau

FIRST SPONSOR: Rep. Wolkins

BILL STATUS: Enrolled

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State

Summary of Legislation: This bill provides that if an underground storage tank consists of a single tank in which there are separate compartments, a separate annual registration fee shall be paid for each compartment within the single tank. It requires the owner of an underground storage tank to pay an annual registration fee for a calendar year if the underground storage tank is not closed before January 1 of that year. The bill also requires the Department of Environmental Management (instead of the Department of State Revenue) to collect the annual registration fee.

The bill provides that: (1) for purposes of determining eligibility for payment of a tank owner's liability from the Underground Petroleum Storage Tank Excess Liability Trust Fund, only registration fees paid in 1991 or later shall be considered; (2) for the period preceding July 1, 2014, the payment of a single annual fee of \$90 for a tank containing separate compartments shall be deemed to satisfy the annual fee requirements; and (3) IDEM is not required to pay any refunds to a tank owner that, before July 1, 2014, paid a separate registration fee for each compartment within a tank.

The bill provides that a county surveyor planning to perform a regulated drain reconstruction or maintenance project shall request a review of the project but is not required to request an onsite field review.

Effective Date: July 1, 2014.

Explanation of State Expenditures: *Underground Storage Tank Fees:* This bill requires the Indiana Department of Environmental Management (IDEM) to collect the annual registration fee for underground storage tanks. The fee is currently collected by the Department of State Revenue. IDEM should be able to implement this requirement with its current staff and resources.

Onsite Field Reviews: The bill allows county surveyors or drainage boards to request onsite field reviews for certain regulated drain reconstructions or maintenance projects. Current law requires onsite field reviews and provides that they are conducted by a team of one or more representatives of the county, one or more representatives from the DNR, one or more representatives of IDEM, and representatives of the local soil and water conservation district (if applicable). This provision could result in reduced administrative costs for IDEM and DNR because staff may not need to conduct as many onsite field reviews.

Explanation of State Revenues: *Underground Storage Tank Fees:* This bill clarifies that a fee for underground storage tanks must be paid for each compartment within the single tank. Fees have been charged for each compartment historically, so this provision should have minimal impact on fee revenue. According to IDEM, there has been at least one tank with separate compartments identified for which only the \$90 registration fee was paid.

A recent court decision (*Pilot Travel Centers, LLC. v. The Indiana Department of Environmental Management*) found that only one fee could be charged for an underground storage tank with more than one compartment due to ambiguity in the law. If the current law would be interpreted in this manner for all underground tanks, it is estimated that the loss of revenue from underground storage tank fees could be about \$600,000 to \$800,000 annually.

The bill also specifies that, for purposes of determining eligibility for payment of a tank owner's liability from the Excess Liability Trust Fund, that only registration fees paid in 1991 or later shall be considered. Under 328 IAC 1-1-9, a minimum of 50% of the registration fees must be paid in order to be considered to be in "substantial compliance." This provision could impact the Excess Liability Trust Fund to the extent that tank owners would be in "substantial compliance" and thus eligible to receive payments from the fund that may have not been deemed eligible due to paying one fee for a tank with separate compartments.

The bill also provides that fees are to be paid if tanks are not closed before January 1 of the year. (Current law provides that fees are to be paid if the tank has not been closed before July 1 of the year). This provision is not expected to impact revenue.

Additional Information - Annual registration fees for underground petroleum storage tanks are \$90 and \$245 for underground storage tanks containing regulated substances other than petroleum. About \$46.7 M was collected in tank fees for FY 2013.

Fees are deposited as follows for underground petroleum storage tanks: \$45 is deposited in the Excess Liability Trust Fund; and \$45 is deposited in the Petroleum Trust Fund.

Fees for underground storage tanks used to contain regulated substances other than petroleum are deposited as follows: \$45 is deposited in the Hazardous Substances Response Trust Fund; and \$200 is deposited in the Excess Liability Trust Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Department of Environmental Management; Department of Natural Resources; Department of State Revenue.

Local Agencies Affected:

Information Sources: Brian Rockensuess, IDEM, 317-234-3386; Legislative Services Agency, *Indiana Handbook of Taxes, Revenues, and Appropriations*, Fiscal Year 2013.

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